

## CHAPTER 9

### HARVESTER: SHELLSTOCK HARVESTING, HANDLING AND SANITATION

- Bullets are **notes** indicated in **blue** for clarification.
- The section number for an existing regulation is noted in brackets [15.01].
- New text or changes proposed in accordance with the **NSSP** compared to the existing regulations are indicated in **red italics**.
- New text or changes proposed by the **Department** in addition to the NSSP are indicated in **bold plum and underlined**.
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#### Chapter 9 Harvester: Shellstock Harvesting, Handling and Sanitation

##### 9.01 Compliance

A violation of this regulation shall be punishable as a Class D crime, as provided by 12 M.R.S.A. §6204, or by license enforcement actions in District Court, and may result in the imposition of fines by the District Court for regulation violations.

##### **9.02 Shellstock Washing.**

- A. *Shellstock shall be washed such as to be reasonably free of bottom sediments as soon after harvest as practicable.***
- B. Shellstock shall be culled of dead, broken or gaping shellfish as soon after harvest as practicable.**
- C. *The harvester must wash the shellstock using one of the following methods:***
  - 1. *Wash the shellstock using water from a growing area classified as approved or conditionally approved in the open status at the time and place of harvest; or***
  - 2. *If shellstock washing is not feasible at the time of harvest, the certified dealer shall be responsible for washing.***
- D. Shellstock shall not be placed in containers of stagnant water.**
- E. *Depuration harvesters may use growing area water in the restricted or conditionally restricted classification in the open status to wash shellstock at the time and place of harvest.***

##### 9.03 Protection from Contamination.

- A. [16.17 (B)]Shellstock shall be stored in a manner to protect shellstock from contamination.**
- B. [16.12 (H)]Containers used for storing shellstock shall be fabricated from safe materials, cleaned and maintained in a manner and frequency as necessary to prevent shellstock from contamination.**
- C. Shellstock transferred, shipped, handled or transported under conditions creating a potential for gross contamination; i.e. with boat motors, engine oil, antifreeze, dead animals, dirty tarps, bilge water, polluted overboard water, closed area water, etc., shall be**

subject to immediate embargo and/or destruction as being of unsound or unknown quality, and therefore, unsafe for human consumption.

D. Shellstock held or washed in closed area water shall be subject to immediate embargo and/or destruction as being of unsound or unknown quality, and therefore, unsafe for human consumption.

E. Shellstock held or washed in water containing any other marine organism(s) shall be subject to immediate embargo and/or destruction as being of unsound or unknown quality, and therefore, unsafe for human consumption.

**9.04 Shellfish Harvester Vessels.**

**A. All harvester vessel operators must ensure that any vessel used to harvest and transport shellstock is properly constructed, operated and maintained to prevent contamination, deterioration and decomposition of the shellstock.**

- 1. Decks and storage bins shall be constructed and located to prevent bilge water or polluted overboard water from coming into contact with the shellstock.**
- 2. Bilge pump discharges shall be located so that the discharge does not contaminate shellstock.**
- 3. Boat decks and storage bins used in the harvest or transport of shellstock for direct market shall be:**
  - (a) Kept clean with potable water or water from a growing area in the approved classification or in the open status of the conditionally approved classification; and**
  - (b) Provided with effective drainage.**
- 4. Vessels and all other equipment coming into contact with shellstock during handling, transfer or transport shall be constructed in a manner and with materials that can be cleaned and maintained, repaired and/or replaced.**
- 5. When necessary, effective coverings shall be provided on harvest boats to protect shellstock from exposure to:**
  - (a) Hot sun;**
  - (b) Birds; and**
  - (c) Other adverse conditions.**
- 6. Cats, dogs and other animals shall not be allowed in any part of the vessel where shellstock are stored except patrol dogs when accompanying security or police officers.**

B. Shellstock shall be transferred to a certified dealer within 24 hours after harvest.

1. Shellstock shall be iced or refrigerated at 45 °F or below during the months of June, July, August and September.

C. Any ice used to cool shellstock during transport shall meet the requirements of Chapter 16.16.

D. Lack of ice or other acceptable means of refrigeration shall be considered an unsatisfactory transfer condition and the shellstock shall be subject to embargo under Chapter 16.23(H). [check cite]

***E. Disposal of Human Sewage From Vessels.***

- 1. Human sewage shall not be discharged overboard from a vessel used in the harvesting of shellstock while the vessels are in the growing area.***
- 2. The Department shall educate all licensed harvesters and certified dealers concerning the public health significance of discharging human sewage overboard.***
- 3. An approved marine sanitation device (MSD), portable toilet or other sewage disposal receptacle shall be provided on the vessel to contain human sewage.***
- 4. Portable toilets shall:***
  - (a) Be used only for the purpose intended;***
  - (b) Be secured while on board and located to prevent contamination of shellstock by spillage or leakage;***
  - (c) Be emptied only into a sewage disposal system;***
  - (d) Be cleaned before being returned to the boat; and***
  - (e) Not be cleaned in equipment used for washing or processing food.***
- 5. Use of other receptacles for sewage disposal may be approved by the Department if the receptacles are:***
  - (a) Constructed of impervious, cleanable materials and have tight fitting lids; and***
  - (b) Meet the requirements in Chapter 9.04(B)(4).*** [check cite]

**9.05 Vehicles Used to Transport Shellstock**

- A. All vehicles used to transport shellstock from the harvest area shall be properly constructed, operated and maintained to prevent contamination, deterioration and decomposition of the shellstock.***
- B. Storage bins on vehicles used in the transport of shellstock for direct marketing shall be:***
  - 1. Kept clean with approved potable water or water from an approved area or conditionally approved area in the open status; and***
  - 2. Provide effective drainage,***
  - 3. Covered to provide protection from contamination.***
- C. Shellstock shall be transported to a certified dealer within 24 hours after harvest.**

1. Shellstock shall be iced or refrigerated at 45 °F or below during the months of June, July, August and September.

*D. Any ice used to cool shellstock during transport shall meet the requirements of Chapter 16.07.*

E. Lack of ice or other acceptable means of refrigeration shall be considered an unsatisfactory shipping condition and the shellstock shall be subject to embargo under Chapter 16.23(H). [check cite]

*F. Cats, dogs and other animals shall not be allowed in any part of the vehicle where shellstock are stored except patrol dogs when accompanying security or police officers.*

#### 9.06 Wet Storage

A. Any harvester choosing to practice wet storage shall apply to the Department on an annual basis for a permit for each wet storage site.

1. The written application must include:

(a) A detailed description, including a map, of the location of any shore storage sites, floats or cars, including loran bearings.

(b) The intended purpose(s) of the wet storage operation such as holding, conditioning or salinization, as well as any other species specific physiological factors that may affect design criteria; and

(c) The standard operating procedure.

2. Wet storage must strictly comply with any and all provisions contained in the permit issued by the Department.

B. The near shore wet storage site or operation shall be evaluated quarterly.

C. Near shore wet storage sites shall meet the requirements for classification as approved or conditionally approved in the open status while shellstock is being held in storage.

D. When areas classified as conditionally approved are placed in a status other than open, any shellstock in wet storage in that area shall be:

1. Held in the wet storage site until the area is returned to the open status.

E. Different lots of shellstock shall not be commingled in wet storage.

F. If more than one lot of shellstock is held in wet storage at one time, lot identity shall be maintained.

G. Shellstock shall not be stored with any other marine organisms.

H. Each near shore wet storage operation shall meet the following design, construction and operating requirements:

1. Effective barriers shall be provided to prevent entry of birds, animals and vermin into the area.

2. Shellfish containers shall be constructed of safe materials and have a mesh type construction which allows free flow of water to all shellfish in the containers.
3. All wet storage sites shall be marked with a device which displays the wet storage permit number in letters and numbers of at least 2 inches in height in colors contrasting to the background color of the device. The perimeters of the surfaces of the device shall be marked by reflective tape.
  - (a) The signs shall be exhibited by either floating on the water surface, or on top of a stake.
  - (b) The signs shall be displayed at each corner of the wet storage area and also along the perimeter not more than 100 yards apart. In cases where the area exceeds 100 yards in distance, additional devices shall be displayed so as to clearly show the boundary line of the area. In situations where the topography of the lease area interrupts the line of sight from one sign to the next, additional signs shall be displayed so as to correct this deficiency.

**9.07 [Chapter 48 and 15.08] Shellstock Tagging and Labeling.**

- A. Each harvester licensed by the Department shall, prior to landing, securely affix a tag to each container he/she has harvested; which is waterproof, durable and approved by the Department prior to use and be at least 2 5/8 inches x 5 1/4 inches (6.7 x 13.3 cm) in size; unless the harvest has occurred at more than one harvest location, in which case each container shall be tagged at the harvest location and shall contain all information necessary to trace the shellfish back to a specific harvest area.
- B. The harvester's tag (including bulk tags where approved for use by the Department) shall:
  1. Contain legible and **indelible** information arranged in the order that follows:
    - (a) Harvester's name;
    - (b) Harvester's Department license number;
    - (c) Date of harvesting;
    - (d) The most precise identification of the harvest area, location or aquaculture lease site as is practicable, including the initials of the state of harvest, and the appropriate geographical location (e.g. town and river, cove, flat, or bay)
      - (i) Off shore vessels fishing mahogany quahogs must provide identification as to the bay (if appropriate) and/or harvesting zones described by the Department
      - (ii) ***The following statement must appear in bold capitalized type "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE FOR 90 DAYS".***
      - (iii) ***The following consumer advisory statement from §3-603.11 of the 1997 Food Code or as revised in subsequent editions, shall be included on all shellstock: "RETAILERS, INFORM YOUR CUSTOMERS" "Thoroughly cooking foods of animal origin such as beef, eggs, fish, lamb, poultry, or shellfish reduces the risk of foodborne illness. Individuals with certain health conditions may be at higher risk if these foods are consumed raw or undercooked. Consult your physician or public health official for further information;" and***

(iv) Time of harvest.

(v) When the shellstock has been placed in wet storage the following statement:  
"THIS PRODUCT IS A PRODUCT OF (NAME OF STATE) AND WAS WET  
STORED AT (WET STORAGE PERMIT NUMBER) FROM (DATE) TO (DATE)"

C. In the instance where a certified dealer is also the harvester; the dealer's tag may also be used as the harvester's tag.

D. It shall be unlawful for any person or persons other than the certified dealer to be in possession of certified dealer tags.

E. The absence of tags as required by this regulation shall be prima facie evidence of violation of these regulations. The absence of required tags shall be grounds for the immediate embargo and/or destruction of the untagged shellfish, in that the uncertain origin of the shellfish necessarily indicates that the shellfish are of uncertain quality, and therefore, unsafe.

F. Shellfish tags that do not contain the required information, or are altered or mislabeled, shall be reason for the immediate embargo and/or destruction of the shellfish to which tags are affixed as being of unsound or unknown quality, and therefore, unsafe.

**9.08 Recall Procedure**

*A. Harvesters shall adopt written procedures, approved by the department for conducting recalls based on, and complementary to, the FDA Enforcement Policy on Recalls, CFR Title 21, Chapter 1, Subchapter A, Part 7 –Enforcement Policy, Appendix B, APB – 1.*

B. Upon learning that shellfish products have been actually or potentially contaminated with biotoxins, or any other poisonous or deleterious substances or sewage and have been harvested and/or sold by the harvester and must therefore be recalled, harvester shall:

1. Immediately notify the Department and the receiving shipper or other receiver/user that product is being recalled, and

2. Provide the Department and the receivers with the type and quantity of shellfish being recalled, including; the harvest area, date of harvest and shipment(s) as they appear on the tag or invoice.

3. Direct the receiver(s) to examine their receiving records and invoices and report:

- (a) The quantity of product received;
- (b) The quantity remaining;
- (c) The quantity shipped and to whom including name, address, phone number (if available) and date(s) of reshipment; and
- (d) All product being held and considered embargoed.

4. Advise the receiver(s) that the product must not be sold or shipped and shall remain on premises until a Department representative arrives on the premises and have all receiving and shipping records and invoices for implicated products available for inspection by Department officials.

C. Department officials or representatives will observe all implicated product and direct embargo or final resolution. They will review and copy or seize all receiving and shipping records and invoices pertinent to the affected product. Affected product or product which cannot be determined to be safe (due to inadequate identification, cross contamination or commingling) will be subject to immediate embargo and destruction.